

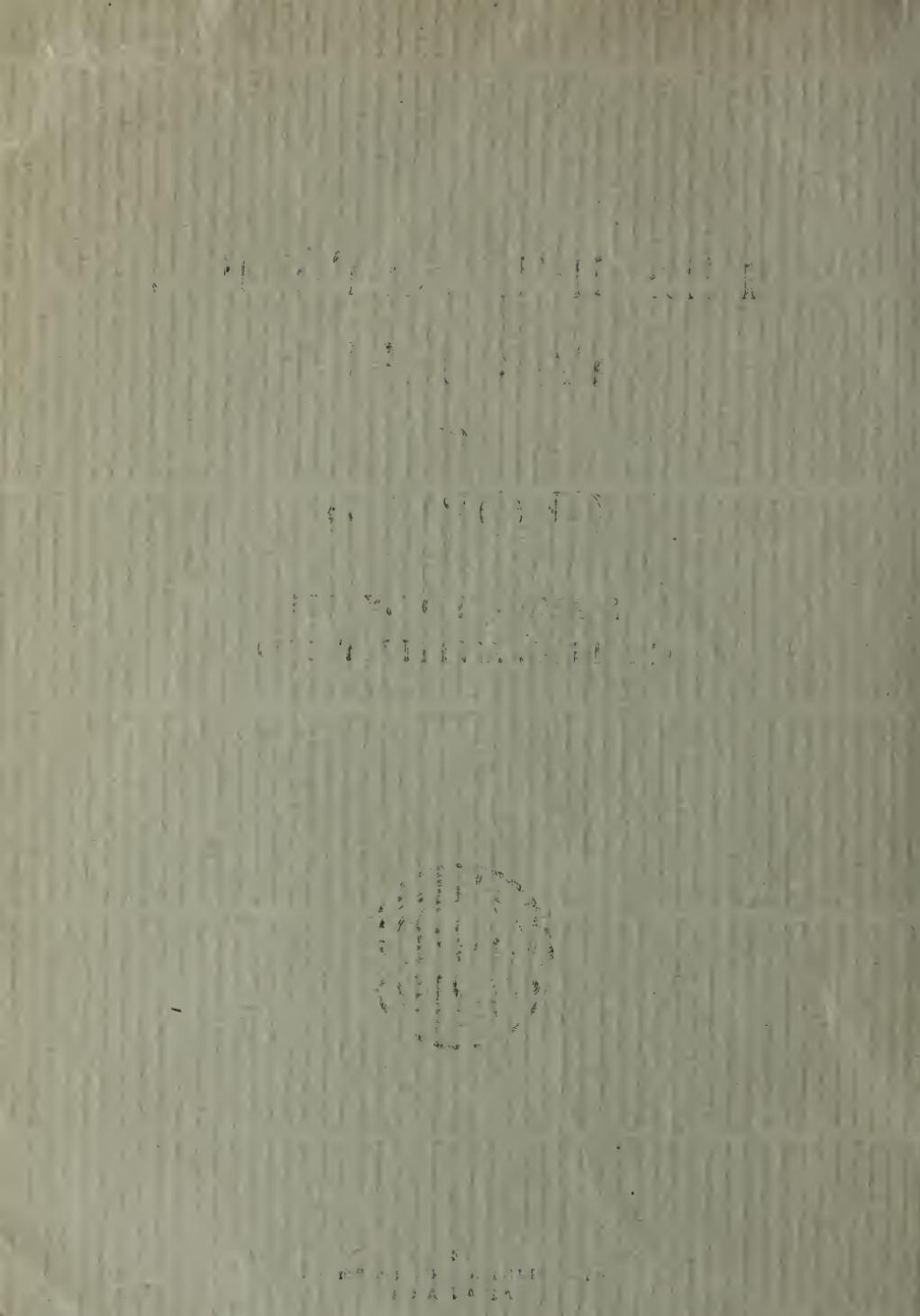
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THE INHERITANCE TAX LAW OF GEORGIA

AS AMENDED BY THE
GENERAL ASSEMBLY, 1919.



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1919

THE INHERITANCE TAX LAW OF GEORGIA,
AS AMENDED BY THE GENERAL
ASSEMBLY, 1919.

An Act to create, provide for and require the payment of taxes whenever property passes by the laws of inheritance or succession, by will, or by deed, grant or gift intended to take effect in possession or enjoyment after the death of the grantor or donor; to fix the rates of said tax; to provide for the lien of said tax, the payment of said tax, the appraisal of the property subject to said tax, and the persons who shall be liable for said tax; to provide for the appointment of administrators and the enforcement of said tax in instances where no will is probated, and no administration is provided for; to provide fees for the Ordinary in matters relating to said tax, and fees for the Tax Collector in collecting said tax, and for other purposes.

Section 1. Be it enacted by the General Assembly of the State of Georgia, and it is hereby enacted by the authority aforesaid, That all property within the jurisdiction of this State, real and personal, and every estate and interest therein belonging to the inhabitants of the State, and all real estate as well as tangible personal property within the State or any interest therein, belonging to persons who are not inhabitants of the commonwealth which shall pass on the death of the decedent by will or by the laws regulating descents and distributions, or by deed, grant, of gift, except in cases of a bona fide purchase for a full consideration, made or intended to take effect in possession or enjoyment, after the death of the grantor or donor, to any person or persons, bodies politic or corporate, in trust or otherwise, shall be subject to taxes, and shall pay the following tax to this State:

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shall be divided into two or more estates, as an estate for years or for life and a remainder, then said tax shall be levied on every estate and interest separately, according to the value of the same at the death of the decedent; that the value of the remainder in said property so limited shall be ascertained by deducting the value of the life estate, term of years, or period of limitation from the fair market value of the property so limited and the tax on the several estate or estates, remainder or remainders or interest shall be immediately due and payable to the Tax Collector of the proper county and said tax shall accrue as provided in Section three of this Act; that the value of estates for years, estates for life, remainders and annuities shall be fixed and determined upon mortality tables using the interest rate or income rate of six per cent.

Sec. 5. Be it further enacted by the authority aforesaid, That if such property subject to the taxation imposed by this Act be in the form of money, the executor, administrator or trustee shall deduct the amount of the tax therefrom before paying it to the party entitled thereto; that if it be not in the form of money he shall withhold the property until the payment by such party of the amount of the tax; in any case the person to whom the property is transferred, the executors, administrators or trustees shall be personally liable for the amount of the taxes, and shall have the right in case of neglect or refusal, after due notice, of the party entitled to the property, to pay such amount, to sell said property, real or personal, or so much thereof as may be necessary, in the same manner as he might by law be entitled to do for the payment of the debts of the testator or intestate; that out of the sum realized on such sale the executor, administrator or trustee shall deduct the amount of the tax and the expense of the sale, and shall pay the balance to the party entitled thereto.

Sec. 6. Be it further enacted by the authority aforesaid, That whenever any legacy subject to said tax shall be charged upon or payable out of real estate, the heir or devisee, before paying the legacy, shall deduct the amount of the tax therefrom, and pay the amount so deducted to the executor, administrator or trustee; that the amount of the tax shall remain a charge on such real estate until paid and the payment thereof shall be enforced by the executor or trustee in the same manner as the payment of the legacy itself could be enforced.

Sec. 7. Be it further enacted by the authority aforesaid, That every executor, administrator or trustee of the estate of the decedent leaving property subject to taxation under this Act, whether such property passes by will or by the laws of descent, or otherwise, shall, within three months after his appointment, make and file an inventory thereof in the Court of Ordinary in the county having jurisdiction in the estate of the decedent; that any executor, administrator or trustee refusing or neglecting to comply with the provisions of this section shall be liable to a penalty not exceeding \$1,000.00 to be recovered in an action brought in behalf of the State by the Solicitor-General of the circuit in which such county having jurisdiction of the estate is located upon notice from the Ordinary of said county.

Sec. 8. Be it further enacted by the authority aforesaid, That if upon the death of any person leaving an estate subject to a tax under the provisions of this Act, a will disposing of such estate shall not be offered for probate or an application for administration is not made within three months from the time of such decease, the State Tax Commissioner or the Tax Collector of the county in which the Court of Ordinary is located, having jurisdiction of the administration of such estate, may, at any time thereafter, make application to the proper Court of Ordinary, setting forth such fact, and praying that an adminis-

trator may be appointed, and thereupon such Court of Ordinary after citation and due advertisement thereof, if no person entitled by law to said administration shall apply therefor, shall appoint the public administrator of the county, or if there be none such, then the Clerk of the Superior Court to administer upon such estate.

Sec. 9. Be it further enacted by the authority aforesaid, That if for any reason administration of the estate of a decedent leaving property subject to taxation under this Act shall not be necessary in this State except in order to carry out the provisions of this Act it shall be in the discretion of the Ordinary upon the filing of a satisfactory inventory of the taxable property of such estate by the heirs or persons entitled to inherit the same to dispense with the appointment of an administrator; that upon the filing of such inventory the appraisement and other proceedings required by this Act shall be had as in other cases.

Sec. 10. Be it further enacted by the authority aforesaid, That when property subject to this tax is transferred or limited in trust or otherwise, and the rights, interest or estate of the transferees or beneficiaries are dependent upon contingencies or conditions whereby each may be wholly or in part created, defeated, extended or abridged, the tax so imposed on such property shall be due and payable forthwith by the executor or trustee out of the property transferred; that where an estate for life or for years can be divested by the Act or omission of the legatee or devisee it shall be taxed as if there were no possibility of such divesting.

Sec. 11. Be it further enacted by the authority aforesaid, That the Ordinary of the county having jurisdiction of the administration of the estate of the decedent, shall on application of any interested party, or upon his own motion, and whenever occasion may

require appoint three disinterested persons as appraisers to fix the value of the property subject to said tax; that the appraisers, being first sworn, shall give notice to all persons known to have a claim in the property appraised, including the executor, administrator or trustee, and the Tax Collector of the county, and the State Tax Commissioner, of the time and place when they will appraise the same, such notice being given by advertisement in some newspaper having general circulation in the county which has jurisdiction of the administration of the estate, that at such time and place they shall appraise such property at its actual or market value at the time of the death of the decedent, and shall thereupon make report thereof in writing to said Ordinary; that when property is located in more than one county the appraisers appointed in the county in which the estate is being administered shall appraise the whole estate; that each appraiser shall be paid on the certificate of the Ordinary \$5.00 for every day employed in such appraisal, together with his actual necessary expense incurred therein, and the fees of such appraisers shall be taxable as a part of the costs of the administration of said estate by the Ordinary, and said fees shall be paid by the executor, administrator or trustee, or by the heirs at law to whom such property descends in case there is no administration; provided, however, upon the agreement of the parties interested to dispense with the appointment of appraisers, the Ordinary himself shall appraise the property, and make and file a report thereof, subject to review by the State Tax Commissioner in his discretion; that for his service in connection with the appointment of appraisers for any estate the Ordinary shall receive a fee of \$5.00, and for the appraisement of any estate by himself the Ordinary shall receive a fee of \$20.00, which fee shall be taxable as a part of the cost of the administration of the estate; provided, however, that it shall be the duty of said Ordinary to furnish the office of the State Tax Commissioner within ten days

of the filing of the same with a copy of the appraisement in every instance, whether made by himself or by appraisers; provided, further, that any appraisement of any estate under this Act shall be held to comply with the present requirement as to appraisement of estates.

Sec. 11-A. That any person or persons, including the State Tax Commissioner, being dissatisfied with the appraisement or assessment may appeal therefrom to the Court of Ordinary within sixty days after the making and filing of such assessment on paying or giving to the Ordinary securities satisfactory to pay all costs, together with whatever taxes shall be fixed by the court, provided, no bond or security shall be required of the State Tax Commissioner. In case of such appeal said cause will stand for hearing at the next regular term of the Court of Ordinary.

Sec. 12. That immediately upon the filing of the report of the appraisement the Ordinary shall calculate and determine the amount of tax due on such property under this Act, and shall in writing certify such amount to the Tax Collector, the State Tax Commissioner, the executor, administrator or trustee, and to the person for whom or for whose use the property passes, and for such services the Ordinary shall receive one-half of the commissions hereafter allowed for the collection of sch tax. That said tax shall be a lien upon such property from the death of the decedent until paid, and shall bear interest from such death until paid, unless payment shall be made within twelve months after such death, in which no interest shall be charged.

Sec. 13. Be it further enacted by the authority aforesaid, That all taxes received under this Act by any Executor, Administrator or Trustee, shall be paid by him within thirty days thereafter to the Tax Collector of the county whose Court of Ordinary has jurisdiction of the estate of the decedent; that upon

such payment the Tax Collector shall make duplicate receipts thereof; that he shall deliver one to the party making payment, the other he shall send to the Comptroller General of the State, who shall charge the Tax Collector with the amount thereof, and shall countersign such receipt and transmit same to the party making payment.

Sec. 14. Be it further enacted by the authority aforesaid, That the Tax Collector of each county shall, on or before the 15th of each month, pay to the Comptroller General all taxes received by him under this Act before the first day of that month, deducting therefrom his fees, which shall be the same as his fees on Digest taxes, and these fees shall be equally divided between the Tax Collector and the Ordinary of the County.

Sec. 15. Be it further enacted by the authority aforesaid, That no final account of an executor, administrator or trustee shall be allowed by the Court of Ordinary unless such account shows and the Ordinary so finds, that all taxes imposed under this Act on any property or interest passing through his hands as such have been paid; that the receipt of the Tax Collector for such taxes shall be the proper voucher for such payment.

Sec. 16. Be it further enacted by the authority aforesaid, That when the taxes imposed by this Act have not been paid within twelve months from the date of the filing of the amount of said tax by the Ordinary in the office of the Tax Collector to whom said tax is payable, the said Tax Collector shall issue executions against the persons and property liable for said tax, and proceed in every way for the enforcement and payment of said tax in like manner that he may now proceed by execution, and for the enforcement and payment of direct taxes on property against delinquent tax payers.

Sec. 17. Be it further enacted by the authority aforesaid, That all laws and parts of laws in conflict herewith be, and the same are, hereby repealed.

Approved August 19, 1919.

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